

LAW ENFORCEMENT OFFICERS' AND FIRE FIGHTERS' PLAN 2 RETIREMENT BOARD

March 29, 2006

Report on Rule-Making

Presented by:

Greg Deam, Senior Research and Policy Manager
(360) 586-2325
greg.deam@leoff.wa.gov

Background

Rules, also known as Washington Administrative Code or WACs, are used by state agencies to implement and clarify state laws. The Department of Retirement Systems (DRS) has statutory authority to adopt rules in order to administer LEOFF Plan 2 pension statutes. The three main goals for creating rules are to make them accurate, easily understood and provide for public participation. The process is commonly referred to as Rule-Making.

Rule-Making Process

DRS uses a seven-step approach in developing and implementing rules and are as follows:

1. Planning and drafting
2. Pre-proposal notice (filing the CR-101)
3. Internal review and approval
4. Proposal (filing the CR-102)
5. Public rules hearing
6. Consideration of testimony/comments
7. Adoption (CR-103)

The Proposal (CR-102 filing) step is when draft rules are published. This is the step where stakeholders, including Board staff, are typically asked for comments. Although not mandatory, the comments are usually incorporated into the final rule. The timeframe for a rule to become effective varies between six-months to a year, from the initial planning and drafting, until adoption.

Appendices

The attached appendices contain a copy of the most recently adopted rules and rules currently in process.

APPENDIX A: Recently Adopted Rules

Retiree Return to Work

OTS-8493.1

AMENDATORY SECTION(Amending WSR 05-12-043, filed 5/25/05, effective 6/25/05)

WAC 415-104-111 ~~((How does the department calculate the retirement allowance of a LEOFF Plan 2 member who retires, reenters employment, and then either retires or separates employment again?))~~ How is my LEOFF Plan 2 retirement allowance affected if I return to work after retirement? ~~((This rule establishes a method to actuarially recompute your retirement allowance if you are a Plan 2 member who retires, reenters employment causing your retirement allowance to be suspended, and then either retires or separates employment again.))~~ This rule applies to you if you are a LEOFF 2 retiree who returns to work in an eligible LEOFF, public employees' retirement system (PERS), school employees' retirement system (SERS), or teachers' retirement system (TRS) position.

(1) If you return to employment in a LEOFF eligible position, you must reenter membership and your retirement allowance will stop. When you separate from service, the department will calculate your retirement allowance according to this subsection.

(a) If you previously retired before age fifty-three, the department will:

(i) Calculate your retirement allowance pursuant to [RCW 41.26.420](#) using:

(A) Your total years of career service, including service earned prior to your initial retirement and service earned after reentering membership; and

(B) Any increase in your final average salary resulting from your reentry into membership; and

(ii) Actuarially reduce your retirement allowance:

(A) Based on the present value of the retirement allowance payments you received during your initial retirement;

(B) To reflect the difference in the number of years between your current age and the attainment of age fifty-three, if ~~((applicable))~~ you are not yet fifty-three; and

(C) To offset the cost of your benefit option if it includes a survivor feature. See [WAC 415-104-215](#).

(b) If you previously retired at or after age fifty-three, the department will ~~((recompute))~~:

(i) Calculate your retirement allowance pursuant to [RCW 41.26.420](#) ~~((and include any additional service credit you earned))~~ using:

(A) Your total years of career service, including service earned prior to your initial retirement and service earned after reentering membership; and

(B) Any increase in your final average salary resulting from your reentry into membership~~((. The department will))~~; and

(ii) Actuarially reduce your retirement allowance to offset the cost of your benefit option if it includes a survivor feature. See [WAC 415-104-215](#).

(c) Under no circumstances will you receive a retirement allowance creditable to a month during which you earned service credit.

(2) If you enter employment in a PERS, TRS or SERS eligible position,
~~((whether or not you enter PERS, TRS or SERS membership, your LEOFF retirement allowance will be suspended under [RCW 41.26.500](#). Upon separation from such employment, your suspended retirement allowance will be reinstated. In addition, you may choose to have the total monthly retirement payments you would have received had you not reentered employment, plus interest, either:~~

~~—— (a) In a lump sum; or~~

~~—— (b) Actuarially computed in your))~~ you have two options:

(a) You may choose not to become a member of the PERS, TRS or SERS retirement system and continue to receive your monthly LEOFF Plan 2 retirement allowance; or

(b) You may choose to become a member of the PERS, TRS or SERS retirement system. Your LEOFF retirement allowance will be suspended while you earn service credit and make contributions toward another retirement benefit. When you leave the PERS, SERS or TRS eligible position, you will resume receiving your LEOFF retirement allowance, along with retroactive payments for the time you were employed. You may choose to have your retroactive payments in a lump sum or actuarially computed into your LEOFF Plan 2 retirement allowance.

[Statutory Authority: [RCW 41.50.050](#)(5), [41.26.500](#). 05-12-043, § 415-104-111, filed 5/25/05, effective 6/25/05. Statutory Authority: [RCW 41.50.050](#)(5), [41.26.470](#), 2001 c 261. 02-14-072, § 415-104-111, filed 6/28/02, effective 7/29/02. Statutory Authority: [RCW 41.50.050](#). 94-09-040, § 415-104-111, filed 4/19/94, effective 5/20/94.]

Appendix B: Rules in Process

DRS Preproposals (CR 101's)

State agencies use preproposals to let the public know that they are considering a rule proposal. These are also used to let the public know how they can become involved in the process. For more information, please see [RCW 34.05.310](#).

All agencies file their preproposals with the Code Reviser's Office for publication in the [Washington State Register](#) (WSR). The WSR numbers shown on the right side of the table are assigned by the Code Reviser's Office. If you click on a WSR number below, you will go directly to the preproposal notice.

TOPIC	WSR #
Disability benefits for members of the Law Enforcement Officers' and Fire Fighters' (LEOFF) Retirement System, Plan 2. This rule is for members who incur a disability that is not duty-related.	04-13-009
Amend the LEOFF Plan 2 duty-disability benefits rule to implement SSB 5615.	05-13-047
Amend WAC 415-104-225 to bring qualifying EMTs into LEOFF 2 membership per SHB 1936	05-13-048
Amend PERS, SERS, and TRS rules to implement HB 1270, enacted in 2005. HB 1270 gives LEOFF Plan 2 members who return to work in eligible PERS, SERS or TRS positions the option of joining membership.	06-04-012